

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-12 and 18-28 were pending in the application, of which Claims 1, 12, and 18 are independent. In the Office Action dated May 17, 2010, Claims 1-12 and 18-28 were rejected under 35 U.S.C. § 103. Following this response, Claims 1-12 and 18-28 remain in this application. Applicant hereby addresses the Examiner's rejections in turn.

I. Applicant's Statement of The Substance of the Interview

A telephonic interview took place on August 9, 2010 between the Examiner and the undersigned representative for Applicant. During the interview, a proposed amendment to claim 1 was discussed in view of one of the cited references of record. No agreement was reached during the interview. Applicant respectfully requests entry of this statement of the substance of the interview.

II. Rejection of the Claims Under 35 U.S.C. § 103(a)

In the Office Action dated May 17, 2010, the Examiner rejected Claims 1-6, 9-10, 12, 18-23, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,430,570 ("*Judge*") in view of Enterprise JavaBeans Component Architecture: Designing and Coding Enterprise Applications ("*EJB*") and further in view of Object-Oriented Interface Design by IBM ("*OOD*"). In addition, the Examiner rejected Claims 7-8, 11, 24-25, and 28 under 35 U.S.C. § 103(a) as being unpatentable over *Judge* in view of *EJB* and a traversed Official Notice. Claims 1, 12 and 18 have been amended, and Applicant respectfully submits that the amendments overcome this rejection and add no new matter.

Amended Claim 1 is patentably distinguishable over the cited art for at least the reason that it recites, for example, “the predetermined application priorities comprising a plurality of varying priority schemes comprising: unloading the application that consumes the largest amount of memory, unloading the application that has not been used for the longest period of time, unloading based on a priority assigned by a media services organization (MSO), unloading by assigned levels, and unloading the plurality of applications in the memory, where the plurality of priority of varying priority schemes are utilized based on an implementation for effecting removal from the memory based on the received application states,” Amended Claims 12 and 18 each include similar recitations. Support for these amendments can be found in the specification at least on page 28, lines 21-30.

In contrast, *Judge* fails to disclose the above-emphasized limitations. *Judge* merely appears to disclose caching class objects on default and only unloading class objects upon direct request or upon determination of a low or no memory condition. (*Judge*, 7:28-36). A priority value may be associated with each entry in an application manager list to rank applications for order of unloading. (*Judge*, 7:36-51). However, *Judge* is silent with respect to the predetermined application priorities comprising a plurality of varying priority schemes comprising: unloading the application that consumes the largest amount of memory, unloading the application that has not been used for the longest period of time, unloading based on a priority assigned by a media services organization (MSO), unloading by assigned levels, and unloading the plurality of applications in the memory, where the plurality of priority of varying priority schemes are utilized based on an implementation for effecting removal from the memory based

on the received application states, As discussed above, *Judge* merely discusses that a priority value may be associated with each entry in an application manager list to rank applications for order of unloading.

EJB fails to remedy the deficiencies of *Judge*. *EJB* merely appears to discuss removing a stateless session prior to other sessions as the latency time to perform the operation may be less. (*EJB*, p. 4). Thus, *EJB* is silent with respect to “the predetermined application priorities comprising a plurality of varying priority schemes comprising: unloading the application that consumes the largest amount of memory, unloading the application that has not been used for the longest period of time, unloading based on a priority assigned by a media services organization (MSO), unloading by assigned levels, and unloading the plurality of applications in the memory, where the plurality of priority of varying priority schemes are utilized based on an implementation for effecting removal from the memory based on the received application states.”

Likewise, *OOI* fails to remedy the deficiencies of *Judge* and *EJB*. *OOI* merely appears to discuss displaying a text warning message after a user selects to close an application. (*OOI*, p. 225). Thus, *OOI* is silent with respect to “the predetermined application priorities comprising a plurality of varying priority schemes comprising: unloading the application that consumes the largest amount of memory, unloading the application that has not been used for the longest period of time, unloading based on a priority assigned by a media services organization (MSO), unloading by assigned levels, and unloading the plurality of applications in the memory, where the plurality of priority

of varying priority schemes are utilized based on an implementation for effecting removal from the memory based on the received application states.”

Combining *Judge* with *EJB* and/or *OOI* would not have led to the claimed subject matter because *Judge*, *EJB*, and/or *OOI*, either individually or in any reasonably combination, at least do not disclose “the predetermined application priorities comprising a plurality of varying priority schemes comprising: unloading the application that consumes the largest amount of memory, unloading the application that has not been used for the longest period of time, unloading based on a priority assigned by a media services organization (MSO), unloading by assigned levels, and unloading the plurality of applications in the memory, where the plurality of priority of varying priority schemes are utilized based on an implementation for effecting removal from the memory based on the received application states, as recited by amended Claim 1. Amended Claims 12 and 18 each include a similar recitation. Accordingly, independent Claims 1, 12, and 18 each patentably distinguish the present invention over the cited art, and Applicant respectfully requests withdrawal of this rejection of Claims 1, 12, and 18.

The pending dependent Claims are also allowable at least for the reasons described above regarding independent Claims 1 and 18, and by virtue of their respective dependencies upon independent Claims 1 and 18. Accordingly, Applicant respectfully requests withdrawal of the rejection of the pending dependent Claims.

III. Conclusion

In view of the foregoing, Applicant respectfully submits that the pending claims, as amended, are patentable over the cited references. The preceding arguments are

based only on the arguments in the Official Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Official Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

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